IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

MISC. CIVIL PETITION NO.68 OF 2004

Smt. Vimla Rajesh Diddi .. Applicant/
Petitioner

Versus

Shri Rajesh Ravindra Diddi .. Respondent

Ms.R.B.Shaikh for applicant.

None for respondent.

CORAM : P.V.KAKADE, J.

DATE : 9TH SEPTEMBER, 2004.

P.C.:

1. Rule. Rule made returnable forthwith.

2. Heard the learned counsel for the Applicant. None present for the Respondent though he was served and has filed his affidavit in reply.

3. The applicant has submitted that the application under Section 25 of Civil Procedure Code praying for transfer of Petition No..HMP No.186 of 2003 pending at A.D.J.Court, Solapur to the Family Court at Bandra, Mumbai. She resides at Mumbai with her parents whereas the respondent resides at Solapur and working in a Construction company. The divorce petition is filed by the respondent in Solapur Court on the ground of mental cruelty. It is submitted by the Applicant that she has her minor son aged 2 and half years old going to the School and her financial condition is also precarious so as to make it impossible to her to visit Solapur on every date fixed in the said proceeding. On the other hand it is submitted that the maintenance application under Section 125 of Criminal Procedure Code was filed at Mumbai and it was decided in her favour and the concerned Court has directed to pay the maintenance to the Applicant and her child at the rate of Rs.1100/= per month. Moreover it is submitted that the Court deciding the maintenance application has also allowed access to the Respondent to the child in custody of the applicant on every third Saturday of month and accordingly he visits the child as per the order of the Court giving

access to the child.

4. The Affidavit in reply filed by the respondent contents denial of all allegations made by the applicant and respondent submits that it would not be possible for him to visit Mumbai on every date fixed by the Family Court and therefore, has challenged the Transfer Application filed by the Applicant.

5. Taking into account all the relevant aspects revealed from the record I am inclined to allow the application in the interest of both the parties with certain directions to the Family Court, Bandra to expedite the hearing after fixing peremptory date for the purpose so as to avoid any inconvenience to the Respondent.

Hence the order:

The Application is hereby allowed.

The Petition No.H.M.P. No.186 of 2003 stands transferred from the Court of Adhoc A.D.J. Court, Solapur to Family Court, Bandra, Mumbai.

The A.D.J. Court, Solapur to take necessary steps immediately to transmit the record and proceedings to the Family Court, Bandra, Mumbai.

The Presiding Judge of the Family Court, Bandra, Mumbai is hereby directed to take necessary steps to expedite the hearing of this Petition by fixing peremptory date of hearing after giving notice to both sides and shall see that the matter is disposed of on merits within six months from the date of receipt of order.

With this directions the application stands disposed of with no order as to costs.